

March 20, 2009

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
March 20, 2009

I. OPENING OF MEETING AT 11:12 A.M. AT 160 NORTH LASALLE STREET,
SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Jan Oncken, Illinois Department of Central Management Services; and John Baker and John Gnutek.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD FEBRUARY 20, 2009

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 20, 2009

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	162.....	9
Agriculture	439.....	17
Arts Council.....	21.....	2
Capitol Development Board	36.....	0
Central Management Services	1,486.....	110
Children and Family Services	3,138.....	49
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	411.....	68
Commerce Commission.....	72.....	0
Corrections.....	11,429.....	116
Criminal Justice Authority	56.....	6
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	10.....	1
Emergency Management Agency	94.....	6
Employment Security.....	1,783.....	25
Environmental Protection Agency	967.....	19
Financial & Professional Regulation	744.....	49
Guardianship and Advocacy	106.....	8
Healthcare and Family Services.....	2,446.....	29
Historic Preservation Agency	197.....	12
Human Rights Commission	14.....	2
Human Rights Department	143.....	10
Human Services	14,302.....	77
Investment Board.....	3.....	2
Juvenile Justice	1,182.....	20
Labor.....	80.....	7
Labor Relations Board Educational	12.....	2
Labor Relations Board State	19.....	2
Law Enforcement Training & Standards Bd.....	19.....	1
Medical District Commission	2.....	0
Military Affairs	125.....	3
Natural Resources	1,310.....	24
Pollution Control Board.....	19.....	2
Prisoner Review Board	20.....	0
Property Tax Appeal Board	21.....	1
Public Health.....	1,135.....	45
Revenue	2,103.....	70
State Fire Marshal.....	143.....	13
State Police	1,409.....	6
State Police Merit Board.....	6.....	1
State Retirement Systems	81.....	2
Transportation.....	4,290.....	0
Veterans' Affairs.....	1,120.....	7
Workers' Compensation Commission	164.....	10
TOTALS	51,330.....	834

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 - 1. The Governor, or
 - 2. A departmental director or assistant director appointed by the Governor, or
 - 3. A board or commission appointed by the Governor, or
 - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.

- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board, or commission.
 - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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C. Requests for 4d(3) Exemption

- As to Items C, D1, and D2, Executive Director Daniel Stralka reported that the agency withdrew all these requests.

V. CLASS SPECIFICATIONS

The following class titles were submitted for creation by the Director of Central Management Services:

Position Titles:

A. M H Recovery Support Specialist 1 (new)

B. M H Recovery Support Specialist 2 (new)

Analysis: Assistant Executive Director Andrew Barris reported that this class series was proposed as a means to appropriately recruit and retain a group of individuals who serve as peer recovery support specialists working with individuals with severe mental disability, their families and service providers to emphasize establishment of wellness goals and recovery oriented supports, and to promote recovery and wellness programs within the service delivery network. The Department of Human Services, Division of Mental Health has reported difficulty in placing individuals who have been recipients of mental health services involving psychiatric illness, the target job candidates for this series. This series attempts to address this problem and to better serve current recipients of mental health services. Barris spoke to John Logsdon and Bill Lipsmire at CMS Technical Services and asked if it was a classification requirement that the employee receive past or present mental health recovery treatment. They indicated that the past and/or current receipt of mental health services was a requirement and this sort of requirement was included in the Alcoholism Specialist series. Positions in this occupational area were initially classified as Administrative Assistant 1 positions some years ago.

Chairman Kolker asked about union authorization. The work of this classification was certified as part of the RC28 collective bargaining unit on April 12, 2004. This work and the qualification requirements of these positions are seen to be sufficiently specialized as to warrant treatment on a separate classification series. The work of these positions is currently represented by AFSCME, provides for “special skills” in the selection process which would accommodate the defined candidate pool. The theory behind the creation of this class is that someone who has undergone mental health treatment would be in a better position to help clients than someone who has not undergone mental health treatment, i.e. someone who has experience with the mental health recovery process would better serve a client than an Administrative Assistant I who only has a legal background and no experience with mental health recovery programs.

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IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO APPROVE THE CREATION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE APRIL 1, 2009:

A: M H Recovery Support Specialist 1

B: M H Recovery Support Specialist 2

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

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VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 12:31 p.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; and James Baker and John Gnutek.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	1/31/09	2/28/09	2/29/08
Agriculture	0	0	2
Arts Council	0	0	1
Central Management Services	2	1	3
Children and Family Services	3	4	3
Criminal Justice Authority	1	1	0
Employment Security	4	3	0
Financial and Professional Regulation	0	0	1
Healthcare and Family Services	3	5	16
Historic Preservation	0	0	0
Human Services	2	0	3
Natural Resources	4	1	1
Public Health	0	0	1
State Police	1	0	0
State Retirement Systems	0	0	0
Transportation	17	17	70
Veteran's Affairs	3	0	1
Workers' Compensation Commission	1	1	2
Totals	41	33	104

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

• DISCHARGE

DA-40-08

Employee	John Gnutek	Appeal Date	4/06/08
Agency	DOR	Decision Date	3/06/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Removing/releasing confidential documents without authorization; attempting to retrieve e-mails of another employee; conducting unauthorized audits	Recommended Decision	Charges are proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 3-2, THE MOTION ADOPTED TO MODIFY AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PROVEN, BUT GIVEN GNUTEK'S PREVIOUS PERFORMANCE RECORD THAT HE EXCEEDED EXPECTATIONS AS A REVENUE SENIOR SPECIAL AGENT, LACK OF SUBSTANTIAL PRIOR DISCIPLINE, AND THE ABSENCE OF ANY EVIDENCE THAT GNUTEK GAINED AN ADVANTAGE FOR HIS ACTIONS, THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE DID NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION. THE RECOMMENDED DECISION DATED MARCH 6, 2009 WAS MODIFIED AS FOLLOWS:

- 1. THE RESPONDENT'S CONTINUOUS SERVICE DATE AS REFERRED TO IN PARAGRAPH 1 OF THE FINDINGS OF FACT WAS NOT SET FORTH IN THE RECORD BUT HE COMMENCED HIS EMPLOYMENT WITH THE PETITIONER ON JANUARY 3, 1999.**
- 2. THE RESPONDENT DID NOT RECEIVE A 20-DAY SUSPENSION AS REFERRED TO IN PARAGRAPH 1 OF THE FINDINGS OF FACT BUT AN ORAL REPRIMAND.**
- 3. THE EVENTS REFERRED TO IN PARAGRAPHS 4-7 OF THE FINDINGS OF FACT OCCURRED ON AUGUST 17, 2007.**
- 4. THE RESPONDENT'S ACTIONS SUBSEQUENT TO ACCESSING PATTARA'S E-MAIL ACCOUNT IN BEING ON HIS ACCOUNT FOR AS LONG AS HE WAS, READING AND FORWARDING HIS E-MAILS, AND NEVER REPORTING HIS ACCESSING THE E-MAIL ACCOUNT TO HIS SUPERVISOR STANDING ALONE ARE SUFFICIENT TO**

WARRANT DISCIPLINE REGARDLESS OF HIS ACTIONS ON AUGUST 17, 2007. THESE INDICATE THE RESPONDENT WAS AWARE THAT HE WAS ON HIS CO-WORKER'S E-MAIL ACCOUNT AND THAT IT WAS NOT A "MISTAKE" AS HE CONTENDS.

THE RESPONDENT WAS NOT FOUND TO BE A CREDIBLE WITNESS GIVEN HIS SOMEWHAT INCREDULOUS EXPLANATIONS FOR HIS ACTIONS AND THE INCONSISTENCIES IN HIS TESTIMONY WITH THAT OF OTHER CREDIBLE WITNESSES. THEREFORE, SAID PROVEN CHARGES WARRANT A 90-DAY SUSPENSION IN LIEU OF DISCHARGE. IN ADDITION, THE DECISION OF THE CHAIRMAN TO DENY THE MOTION OF JOHN GNUTEK TO PRESENT ORAL ARGUMENT WAS RATIFIED SINCE, IN THE JUDGMENT OF THE COMMISSION, NO NOVEL AND PRECEDENT SETTING QUESTIONS OF LAW OR POLICY WERE AT ISSUE.

KOLKER	YES	EWELL	YES
PETERSON	NO	DALIANIS	NO
BUKRABA	YES		

• **DISCHARGE**

DA-51-08

Employee	Andrea Torres	Appeal Date	6/06/08
Agency	DES	Decision Date	3/09/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Violation of Code of Ethics and gross misconduct	Recommended Decision	Charges are partially proven and warrant 90-day suspension.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PARTIALLY PROVEN, BUT GIVEN THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION DATED MARCH 9, 2009, THE PARTIALLY PROVEN CHARGES DID NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION. THEREFORE, SAID PROVEN CHARGES WARRANT A 60-DAY SUSPENSION IN LIEU OF DISCHARGE.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

- **DISCHARGE**

DA-1-09

Employee	John Meszaros	Appeal Date	7/07/08
Agency	HFS	Decision Date	3/06/09
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Inappropriate behavior or discourteous treatment; failure to follow supervisory instructions; violation of conflict of interest policy	Recommended Decision	Charges are partially proven and warrant 60-day suspension.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PARTIALLY PROVEN, BUT GIVEN THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION DATED MARCH 6, 2009, THE PARTIALLY PROVEN CHARGES DID NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION. THEREFORE, SAID PROVEN CHARGES WARRANT A 60-DAY SUSPENSION IN LIEU OF DISCHARGE.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. **APPEALS TERMINATED WITHOUT DECISIONS ON THE MERITS**

- **DISMISSED**

DA-16-09

Employee	Emmanuel Offor	Appeal Date	11/05/08
Agency	DHS	Decision Date	03/06/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences	Recommended Decision	Dismissed; withdrawn (settled).

DA-18-09

Employee	Mark G. Horton	Appeal Date	11/24/08
Agency	DHR	Decision Date	03/04/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences; unsatisfactory performance of duties; negligence in performance of duties	Recommended Decision	Dismissed; default (no show).

DA-27-09

Employee	Marva Y. Williams	Appeal Date	1/13/09
Agency	WCC	Decision Date	2/17/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Misuse of state equipment and supplies	Recommended Decision	Dismissed; settled.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISIONS TO DISMISS THE OFFOR, HORTON, AND WILLIAMS APPEALS.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. REPORT ON THE TREATMENT OF PRIOR DISCIPLINARY INCIDENTS WHICH ARE THE SUBJECT OF PENDING GRIEVANCES

This report was continued until April 17, 2009.

XII. STAFF REPORT

Executive Director Daniel Stralka reported that:

- Sandra Guppy attended the Budget Briefing on March 17. Because the Retirement rate was decreased in the Budget Book, our fiscal year 2010 appropriation request is \$417,800.
- Statements of Economic Interests have been mailed. They should be completed and send to him. They are due to the Secretary of State by May 1.

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Assistant Executive Director Andrew Barris reported that:

- Civil Service Commission rule changes have been submitted to and reviewed by the Joint Committee on Administrative Rules and were sent to and approved by Secretary of State Index Department for publication.

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, April 17, 2009 at 11:00 a.m. in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER BUKRABA AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 12:40 P.M.